

VZCZCXRO1808
RR RUEHCHI RUEHDT RUEHHM RUEHNN
DE RUEHBK #4442 2280946
ZNR UUUUU ZZH
R 160946Z AUG 07
FM AMEMBASSY BANGKOK
TO RUEHC/SECSTATE WASHDC 8961
RUCNASE/ASEAN MEMBER COLLECTIVE
RUCPDOG/USDOC WASHINGTON DC
RUEATRS/DEPT OF TREASURY WASHINGTON DC

UNCLAS BANGKOK 004442

SIPDIS

SENSITIVE

SIPDIS

STATE FOR EAP/MLS
STATE PASS USTR
USDOC FOR 4430/EAP/MAC/OKSA
SINGAPORE FOR TREASURY ATTACHE BAKER

E.O. 12958:N/A
TAGS: [ECON](#) [EINV](#) [ETRD](#) [TH](#)

SUBJECT: PARLIAMENT WITHDRAWS FOREIGN BUSINESS ACT AMENDMENTS,
UNCLEAR WHEN IT WILL REAPPEAR

11. (U) Summary: The National Legislative Assembly (NLA) last week withdrew proposed amendments to the Foreign Business Act that foreign investors fear would further restrict investment in the Thai economy. Before withdrawing the bill, the NLA succeeded in expanding the definition of foreigner to include not just majority shareholding and majority voting rights, but also management control. In ensuing debate over grandfathering provisions and waivers for existing businesses in restricted sectors, the NLA withdrew the bill at the request of the Minister of Commerce. While the NLA has returned the amendments to committee for review and revision, and it is unclear if they will resurface, there clearly remains a chilling effect on the investment environment. End Summary.

12. (U) On August 8, the NLA deliberated on amendments to the Foreign Business Act (FBA) that the Cabinet had submitted in late April. The original version of the amendments included a provision that expanded the definition of foreigner to include majority voting rights in addition to majority equity ownership. In a 76-64 decision the NLA approved a further expansion of the definition to include management control, including power to appoint or remove directors and the power to direct business affairs.

13. (U) During ensuing debate on Section 10 of the amendments that provide for grandfathering and waivers for existing businesses, NLA members raised a host of questions regarding the control of assets and land belonging to newly defined foreign firms. Realizing that NLA support was flagging in the face of the questioning, Minister of Commerce Krirk-krai requested and the NLA granted that the bill be withdrawn. The bill returns to committee for further review and revision. Krirk-krai declined to say when the bill could be again returned for a vote, but intimated that it might not pass during the current government.

14. (SBU) Discussion in the investor community has speculated that the NLA's additions to the FBA were a deliberate attempt to sabotage the amendments, creating an Act so strict as to be unpalatable to other NLA members. Somchai Sakulsurarat, vice-chair of the NLA committee on the FBA and considered the architect of the changes to the amendments, claimed that while he is liberal toward foreign investment, sabotage was not the motivation. In a conversation with the EU economic counselor, Somchai insisted that he and other NLA supporters were seeking only to clarify the law on foreign ownership. Somchai said he planned to offer foreign investors a package deal: stricter definitions of foreign control together with greater liberalization of the lists of restricted business sectors. (Note: Embassies and business chambers are arranging a further meeting with Somchai to flesh out his proposal.)

15. (SBU) The newly approved definition of foreigner is unlikely to impact U.S. companies if an amended FBA passes through parliament. Investment privileges through the Treaty of Amity and Economic Relations that provides national treatment to U.S. investors have insulated most U.S. business from the proposed amendments. Only a relative handful of U.S. companies would likely be affected. Nevertheless, the proposed amendments have had a chilling effect on the overall business and investment environment.

BOYCE